

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 01-0046P**

**Use Tax**

**Calendar Years 1997, 1998, and 1999**

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**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer protests the penalty assessed on an audit completed on August 25, 2000.

Taxpayer is an Indiana corporation that maintained its headquarters in Indiana until the year 2000. Taxpayer's corporate headquarters moved out of state. Taxpayer failed to self-assess use tax on clearly taxable purchases such as office supplies, publications, copier rental, storage trailer rental, maintenance supplies, equipment rental, and other miscellaneous items. In some cases the taxpayer marked the invoice as taxable for Indiana use tax but the taxpayer did not accrue and remit the use tax. The department gave credit in the audit for items where no tax should have been paid.

1. **Tax Administration** – Penalty

**DISCUSSION**

Taxpayer's audit report revealed that it failed to self assess use tax for various clearly taxable items.

Taxpayer requests a waiver of penalties because the sales tax law is complicated and some of the errors were due to positions taken, which were based on a reasonable interpretation of the law. In addition, many vendors sell both taxable and nontaxable items depending on the job classification and periodically the vendors use the wrong account that is not caught internally. Finally the taxpayer states that as a percentage of invoices processed, the error rate was low, probably less than .1% and in a busy office in a competitive industry it is impossible to achieve 100% accuracy.

Taxpayer failed to self assess use tax on clearly taxable fixed assets and other miscellaneous purchases in all years of the audit. Although the taxpayer made improvements, it failed to self assess and remit use tax due on 51.3%, 22.3%, and 10.1% for calendar years 1997, 1998, and 1999 respectively.

The taxpayer was negligent in failing to self-assess and remit use tax on clearly taxable fixed assets and miscellaneous purchases and has not shown reasonable cause for failing to do so.

### **FINDING**

Taxpayer's protest is denied.